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## REMARKS/ARGUMENTS

In response to the Office Action dated July 11, 2006,  
please amend this application as follows:

In the claims, cancel claims 4 and 12 and amend claims 1  
and 6. See AMENDMENTS TO THE CLAIMS.

Claims 1, 6 and 14 remain in the application.

Claim 1 has been amended to more specifically define  
applicant's invention and also to patentably distinguish over the art  
cited by the examiner. It is respectfully submitted that any  
rejection of amended claim 1 under 35 U.S.C. 103(a) as being  
unpatentable over Brochu in view of Herren would be improper.

The examiner has stated that it would be obvious to replace  
the outer side structure of Brochu's gutter cover with the outer  
guard structure shown in Herren's gutter cover and arrive at  
applicant's structure. It is respectfully submitted that it would not  
be at all obvious to replace the outer side structure of Brochu with  
the outer guard structure of Herren. Brochu's gutter cover uses a  
clip 66 attached under the mounting member 30 at the inner side of  
the cover to connect the cover to the gutter. There is nothing at the  
outer side of the Brochu's cover to attach it to the gutter and in  
fact nothing further is needed. The outer side of Brochu's cover  
merely rests on the top of the gutter. Thus it would not be at all  
obvious to modify the outer side of Brochu's cover with the outer  
side of Herren's structure to further attach Brochu's cover to the  
gutter as the examiner suggests.

Even if it were obvious to modify Brochu's cover with  
Herren's outer guard structure, it is respectfully submitted that the  
modified structure still would not be the same as applicant's  
structure claimed in amended claim 1 nor would it work in the same  
manner.

Claim 1 now calls for the channel on the outer side of the

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cover to have its bottom wall aligned with the panel. Having the bottom wall aligned with panel places the end wall, joining the top and bottom walls of the channel, above the panel where it is in a position to be gripped. The end wall, above the panel, also acts a dam. Herren's guard structure does not have this feature. The 'panel' (or screen) in Herren is above the bottom wall and not aligned with it. There is simply no reason in Herren to have the bottom wall aligned with the panel. Also, the end wall 25 in Herren is not located above the panel, is not high enough to be gripped or to act as a dam, and is not even in a position to be easily gripped being located behind the 'capture portion' or double flange 22 and the screen 30. It is the double flange 22 in Herren that acts as a dam and that is probably used to mount the structure on a gutter.

Claim 1 also now calls for the bottom wall to be spaced a sufficient distance from the top wall of the channel to receive the downturned lip of a gutter between the top and bottom walls. The cover is particularly suited for use with a gutter of the type having an outer lip that extends inwardly and then downwardly and outwardly. The downwardly extending lip requires a channel that is quite deep to receive it. The spacing between the top and bottom walls of the channel provides the necessary space to receive the downturned lip of a gutter between them. The spacing also makes for a relatively high end wall joining the top and bottom walls allowing the end wall to be easily gripped to mount the channel on the gutter lip and also to act effectively as a dam.

Herren's structure is meant for use with a different style of gutter, one having a straight outer lip that extends horizontally inwardly and does not curve downwardly and outwardly as do the gutters shown in Brochu and in this application. Herren does not need clips 24 spaced some distance away from the flange element 23 to have the structure securely grip the straight lip of a gutter between the curved ends 27 and the flange element 23. In order to securely grip, the curved ends 27 must normally abut the flange element 23 as shown in the drawings. The resiliency of the leg 26 carrying the end 27

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allows gripping of the gutter lip between the end 27 and the flange 23 to mount the structure. Because the leg 26 must be close to the flange element 23, in fact abutting it with curved end 27, to be able to securely grip the gutter lip, the end wall 25 is quite short and thus cannot be easily gripped and cannot provide a high enough dam. That is why Herren uses double flange 22 as a dam and in all likelihood as a grip as well. Applicant does not need extra flanges to provide a dam or act as a grip.

It should also be noted that, because of the difference in the lip constructions of the gutters, applicant's structure does not rely for resiliently gripping the gutter lip to connect the cover to the gutter, as does Herren's structure, but instead slides the retaining means past the gutter lip and thus uses the retaining means as an abutment against the end of the gutter lip to hold the cover in place. This allows the bottom wall to be spaced from the top wall providing a higher end wall.

Amended claim 1 now also calls for the channel to extend the length of the cover. Herren does not have this feature. The wall 25 in Herren is in fact a number of short walls spaced apart along the length of Herren's guard structure. If Herren's wall 25 was continuous over the length of his structure, as is applicant's end wall, Herren's structure would be completely different from that shown.

It is difficult to argue the relevancy of the prior art when it is not clear how the Herren structure could be adapted to Brochu. If the examiner maintains the rejection it is respectfully requested that he clearly point out what part of the Herren structure is used, and more particularly how and where it is attached, to the Brochu structure.

Applicant's construction is clean and simple compared to the Brochu and Herren structures. Both Brochu and Herren require an upwardly extending double flange section to provide a dam and, in

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Herren's case, a gripping means. The double flange uses twice the material applicant requires in using his single end wall both for gripping and as a dam. Further, applicant's structure is easily manufactured by extrusion whereas Herren's construction requires cutting and bending of the guard unit to provide the clips and requires crimping of the channel to attach the guard unit to the screen. These separate operations add to the cost of the product.

In view of the above, it is believed that amended claim 1 patentably distinguishes over the prior art and is properly allowable. The remaining claims, being dependent on claim 1, are believed allowable for the same reasons.

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## AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application.

## LISTING OF CLAIMS

1. (currently amended) A gutter cover for use with a gutter having a top, outer lip that has a downwardly and outwardly curved end section, the cover having a main elongated section, an outer side section on one side of the main section, and an inner side section on the other side of the main section, the main section comprising a perforated panel, the outer side section defining a channel that opens away from the main section and extends over the length of the cover; the channel defined by a top wall, a bottom wall and an end wall joining the top and bottom walls, the bottom wall of the channel aligned with the panel and being shorter than the top wall, the bottom wall spaced enough from the top wall to have the channel sized to fit over the outer lip of a gutter; the inner surface of the end wall forming a gripping surface, and a gripping surface on the cover on or near the outer side section and extending upwardly; the gripping surface facing away from the channel opening and used to pull the channel over the outer lip of the gutter when installing the cover; the inner side section defining a slot that opens away from the main section; and a flexible flap mounted in the slot and extending away from the main section.

2-5 (canceled)

6. (currently amended) A gutter cover as claimed in claim 4 1 wherein the bottom wall has retaining means on its top surface near its outer end.

7-13 (canceled)

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14. (previously presented) A gutter cover as claimed in claim 1 wherein the gutter cover is made from painted aluminum coated with a polyester.